

12/05/2014



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STATE OF DELAWARE
BOARD OF MASSAGE AND BODYWORK

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PUBLIC MEETING MINUTES: Board of Massage and Bodywork
MEETING DATE AND TIME: Thursday, November 20, 2014 at 1:30 p.m.
PLACE: 861 Silver Lake Boulevard, Dover, Delaware
Conference Room B, second floor Cannon Building
MINUTES APPROVED: January 15, 2015

MEMBERS PRESENT

Sandra Jachimowski, Professional Member, President
Rachel Dunning, Public Member
Patricia Schumann-Draper, Professional Member
Holly Overmyer, Professional Member, Vice President
Jermaine Cannon, Professional Member
Gordon Gelley, Public Member
Kathy Sherwin, Public Member

MEMBERS ABSENT

DIVISION STAFF/DEPUTY ATTORNEY GENERAL/COURT REPORTER

Eileen Kelly, Deputy Attorney General
Maggie Strauss, Administrative Specialist II

OTHERS PRESENT

Melody Mercadante

CALL TO ORDER

Ms. Jachimowski called the meeting to order at 1:35p.

REVIEW OF MINUTES

The Board reviewed the minutes from the October 16, 2014 meeting. A motion was made by Mr. Gelley, second by Ms. Dunning, to approve the minutes as presented. The motion carried unanimously.

The Board members introduced themselves to new member Kathy Sherwin.

UNFINISHED BUSINESS

Propose to Deny Hearing of Melody Mercadante

Ms. Kelly called the hearing to order at 1:39p and stated that today's hearing was a result of the Board's proposal to deny the Certified Massage Technician application of Melody Mercadante. Ms.

Kelly marked as Board Exhibit #1, a packet of documents for licensure including Ms. Mercadante's application, previous Board order and supporting documents. Respondent exhibit #1 included CE certificates of completion and CPR certification. Board members were introduced and Ms. Mercadante was sworn in and agreed to proceed sans legal counsel.

Ms. Mercadante began her testimony by stating that she was unaware of the rule to show cause hearing that was previously held and resulted in the revocation of her license. She indicated that she had moved several times due to unforeseen circumstances and never received any correspondence from the Division office. She found out about her revocation through the National Database. Ms. Mercadante asked the Board members to review the CPR and CE certificates she had submitted for today's hearing which indicated that she was compliant with the requirements of licensure in accordance with Board regulations.

Ms. Jachimowski questioned the certificate reflecting a craniosacral therapy course. Ms. Mercadante explained that it was a 3 day seminar she attended to complete her CE requirements. The Board was concerned that the certificate did not reflect the number for CE credits she received. Ms. Mercadante explained that that was the only certificate she received.

The Board began deliberations; they agreed that the applicant seemed to be in compliance and her revocation was only a result of communications not received. Ms. Sherwin asked Ms. Kelly if the order could be written to reflect an effective on date so that if a certificate that reflected CEU's received was received, Ms. Mercadante could be approved for licensure. Ms. Kelly indicated that yes that was allowable if a majority vote indicated such. Ms. Strauss and Ms. Jachimowski could review the document and if approved she would proceed with drafting the order.

A motion was made by Ms. Dunning, second by Mr. Gelley to approve the CMT application of Melody Mercadante contingent upon receipt of a certificate that indicated the name, date and number of CEU's received from the Craniosacral Therapy seminar. The motion carried unanimously.

The hearing adjourned and went off record at 1:58p. Verbatim testimony is available via audio recording.

Review and Signing of Final Orders

The Board reviewed and signed the final orders of Hong Dong Zhang, Michelle Francis, Rose Harris, Ali Lowe, Leslie Maxwell, Jaan Lutter, Kaitlin Economos-Monroe and Sherry Jessee.

Review of Board Order(s) – Non-Compliance

The Board reviewed the final order for Noel Olson; finding her non-compliant with the signed order, a motion was made by Mr. Gelley, second by Ms. Dunning to suspend the license of Noel Olson for non-compliance with a final Board Order. The motion carried unanimously.

Re-Review of CPR Course from Emergency University

The Board re-reviewed the information submitted by Emergency University. Ms. Strauss shared information she received while attending the Board of Pharmacy meeting, who received the same request. Mr. Galloway (DE Board of Pharmacy public member) researched the company per (Pharmacy) Board request. Having been a previously certified CPR and First Aid instructor Mr. Galloway stated that he felt this was a reputable company, however he was uncertain of how the class was taught; online (via skype) or in the classroom. He was not sure how an individual could have their skills assessed outside of a classroom setting. The Pharmacy Board voted to decline the request to approve this company as acceptable and will continue to only allow hands-on CPR certification. Ms. Jachimowski also expressed her displeasure with the lack of response from the

company to the questions/concerns they had. A motion was made by Mr. Gelley, second by Ms. Dunning to deny the request of Emergency University to be an approved CPR/First Aid provider. The motion carried unanimously.

NEW BUSINESS

Ratification of Massage Technician Certifications

A motion was made by Mr. Gelley, second by Ms. Dunning, to approve the ratification of the Massage Technician applications of: Jessica Lynn Spence, Regina L. Ringold, Melinda Ruth Ward, Kaprice T. Belton, Sarah Elizabeth Hewitt, Elvis U. Amadi, Leah M. Rechen, Nickole Renea Visan, Stacey Jennifer Coley and Mohini Meghan Amin. The motion carried unanimously.

Ratification of License Massage Therapists

A motion was made by Mr. Gelley, second by Ms. Dunning, to approve the ratification of the Massage Therapist Certifications of: Laudie Jean-Francois, Alonna S. Clark-Skinner, Mingyue Hu, Jessica M Nenzoski and Aimee L. Balentine. The motion carried unanimously.

Continuing Education

Academy of Massage & Bodywork, Ltd. (Re-Review)

Reflexology Orientation Workshop - **DENIED**

Robin Coventry

Basic Theta Healing DNA2 – 15 Elective

Complaint Status

20-07-12 – Office of Attorney General

20-01-13 – Hearing Officer

20-02-13 - Attorney General

20-03-13 - Attorney General

20-06-13 - Attorney General

20-14-13 – Hearing Officer

20-17-13 – Hearing Officer

20-05-14 – Attorney General

20-09-14 – Attorney General

20-10-14 – Attorney General

20-11-14 – Attorney General

20-12-14 – Attorney General

Application(s) for DAG Review

Under advisement from Ms. Kelly, a motion was made by Ms. Dunning, second by Mr. Gelley to approve the applications of Ashley Henderson, Jose Rodriguez and Lisa Matoni for licensure. The motion carried unanimously.

Discussion of defining “Approved School” and “Approved Program”

The Board unanimously decided to focus on defining modalities and the licensure of establishments before they focus on developing guidelines for approving schools and programs.

Review & Consideration of Request to Lift Probationary Status

The Board reviewed the request submitted by Carrie L. Nelson; a motion was made by Ms. Dunning, second by Mr. Gelley to return Ms. Nelson's license status to active. The motion carried unanimously.

Evaluation of Modalities

The board began the discussion by agreeing that they will focus on more clearly defining modalities in 2015. Ms. Kelly advised the Board that most states currently separate bodywork and massage rather than group them as one. Several states also have an exemption for some modalities they consider to be defined as bodywork. The most common determining factor with these states seems to be outlined as "procures performed without articles of clothing being removed, with the exception of hats, shoes and socks" and "where only specific areas of the body are touched (e.g.: ears and feet). The Board agreed that this was a good place to start, and would like Mr. Mangler to attend the January meeting, if possible, to provide guidance on specifics of some modalities that he feels should be separated out. They would also like his input on how to continue to regulate them if they are eventually taken out of the Massage & Bodywork regulation.

Review of state statutes for licensure of massage establishments

Ms. Jachimowski stated that she thinks the Board should first draft a definition of what is considered an establishment and to include a provision for "out call" licensees in that definition. Ms. Draper indicated that she will provide some information to the Board that she has, along with the previous documents reviewed in prior meetings.

Miscellaneous Review and Discussion

Ms. Strauss advised the Board that the audit notices for licensees chosen for random audit and those chosen as a result of Board Orders will be mailed on December 1, 2014. Ms. Strauss also explained that the last audit period took a considerable amount of time to run based on the late renewal review. She recommended the Board do a quarterly mailing of audit notices to late renewals and presented a schedule that reflected such. The Board unanimously voted to run a 100% audit per that schedule.

The Board determined by unanimous vote to keep the topics of Establishment Licensure and Modalities a running agenda item rather than try to form a subcommittee.

CORRESPONDENCE

The Board reviewed documents submitted by FSMTB regarding the annual meeting.

Ms. Jachimowski summarized a letter from Billie Shea – NCBTMB consultant.

OTHER BUSINESS (for discussion only)

There was no other business for discussion.

PUBLIC COMMENT

Ms. Draper addressed the Board with her concerns over CE requirements and regulation. She indicated that she was concerned with a CMT taking advanced level CE courses designed for an LMT scope of practice; she fears it will potentially encourage CMT's to practice outside of the scope of their license. Are these courses promoting false representation?

Ms. Jachimowski and Ms. Overmyer both stated that the training received by CMT's is the same as that received by an LMT, the only difference is that CMT's chose not to take the national exam.

Ms. Overmyer said she chose not to take it because she never wants to work for a doctor so didn't see the need to cover the additional exam cost. Mr. Gelley stated that we can only rely on the CMT's to practice within the scope of licensure.

NEXT SCHEDULED MEETING

The next meeting is scheduled for January 15, 2015 at 1:30 p.m.

ADJOURNMENT

There being no further business, a motion was made by Ms. Overmyer, second by Ms. Dunning, to adjourn the meeting. The motion carried unanimously. The meeting was adjourned at 3:20p.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Strauss', written in a cursive style.

Maggie Strauss
Administrative Specialist II